



Police and Crime Commissioner for Derbyshire

Policy for dealing with unreasonable and unreasonably persistent complainants and vexatious complaints

EXTERNAL POLICY

Control Sheet

Policy Details

Policy Title	Derbyshire OPCC Policy for dealing with unreasonable and unreasonably persistent complainant and vexatious complaints
Responsible Officer	OPCC's Interim Chief Operating Officer
Security Classification	External
Disclosable under FOIA	Yes
Policy implementation date	July 2021
Next review date	December 2022 (Annually)

Revision date	Changes
06/12/2021	Reviewed content changed Chief Executive wording in the policy to Interim Chief Operating Officer and updated the next review date – MR 06/12/2021.

1. INTRODUCTION

- 1.1. The Police and Crime Commissioner for Derbyshire (the Commissioner) is committed to dealing with complaints fairly, thoroughly, impartially and in a timely way. Generally, dealing with a complaint is a straight forward process following established policies and procedures. The Commissioners staff are committed to respond with patience and understanding to the needs of all complainants and to seek to resolve their complaints. This includes, where relevant, taking into account any disability or other protected characteristic under equalities legislation which may make the process more difficult for any particular complainant.
- 1.2. However, there are times when the complainant is not satisfied with the resolution offered by the Commissioner and they may attempt to pursue their complaint in an unreasonable way. Their actions and behaviour may impede the proper investigation of their complaint or may impede the normal running of the Commissioner's business. This may lead to significant resource implications for the Commissioner which are out of proportion with the nature/seriousness of the complaint. The Commissioner defines such behaviour as 'unreasonable', 'unreasonably persistent' or 'vexatious'.
- 1.3. This policy is designed to help the Commissioner and their staff to identify and deal with unreasonable and unreasonably persistent complainants and vexatious complaints in a demonstrably consistent and fair way. It assists the Commissioner, any Deputy Commissioner and staff to understand clearly what is expected of them, what options are available, and who can authorise these actions.

2. SCOPE OF THE POLICY

- 2.1. This policy and guidance applies to:
 - a. any complaint made in relation to:
 - (i) the level or quality of service in respect of complaints about the Commissioner, the Deputy Commissioner, a member of the Commissioners staff or a contractor engaged on behalf of the Commissioner;
 - (ii) the conduct of a member of the Commissioners staff or of a contractor engaged on behalf of the Commissioner;
 - b. complaints in relation to the work of the Independent Custody Visitors;
 - c. complaints received under the Commissioner's Whistle Blowing or Anti-Fraud and Corruption Strategy;

- d. complaints about the conduct of the Police and Crime Commissioner or any Deputy Commissioner.
- 2.2. This policy does not cover complaints about the Chief Constable of Derbyshire Constabulary. All matters relating to complaints made against the Chief Constable, including any actions and behaviours by someone who has made such a complaint, will be dealt with in accordance with the legislation governing conduct complaints against Police Officers, namely the Police Reform Act 2002 and any associated secondary legislation.
- 2.3. This policy does not cover complaints or any actions and behaviours by someone arising from a request for information under the Freedom of Information Act. Such matters will be considered on a case by case basis in accordance with the Freedom of Information Act 2000, taking account of the Information Commissioners Office guidance.

3. **ACTIONS AND BEHAVIOUR OF UNREASONABLE/ UNREASONABLY PERSISTENT COMPLAINANTS AND IN RELATION TO VEXATIOUS COMPLAINTS**

- 3.1. Listed below are some of the actions and behaviours that the Commissioner considers to be unreasonable, unreasonably persistent and vexatious. The list is not exhaustive.
 - Refusing to specify clearly the grounds of their complaint, despite offers of assistance from staff or the Commissioner or any Deputy Commissioner.
 - Refusing to use or accept the application of the relevant Commissioner complaints policy/procedure despite being advised to do so.
 - Refusing to accept that issues are not within the remit of a complaints policy/procedure despite having been provided with information about the scope of the policy or procedure.
 - Refusing to co-operate with the complaints investigation process whilst still wishing their complaint to be resolved.
 - Insisting on the complaint being dealt with in ways which are incompatible with the Commissioners adopted complaints policies and procedures or with good practice or which are unlawful or not in accordance with legislation.
 - Making what appear to be groundless complaints about the staff or the Commissioner or the Deputy Commissioner dealing with the complaint.
 - Changing the basis of the complaint as the investigation proceeds and/or denying statements the complainant made at an earlier stage.
 - Introducing irrelevant new information into a complaint which the complainant expects to be taken into account and commented on, or raising detailed but materially irrelevant questions or comments and insisting they

are fully answered.

- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach; pursuing a complaint or complaints with the Commissioner and, at the same time, with others e.g. the Independent Police Complaints Commission, a Member of Parliament, local Councillor, the local police or solicitors.
- Making unnecessarily excessive demands on the time and resources of staff or the Commissioner or Deputy Commissioner whilst a complaint is being looked into, for example by submitting repeated complaints, by excessive telephoning or sending of emails to staff or the Commissioner, sending regular letters/emails and expecting unreasonably quick responses e.g. more quickly than the timescales set out in the relevant policy/procedure.
- Submitting repeated complaints after the complaints processes have been completed, which are essentially about the same issues.
- Refusing to accept the Commissioners decision – repeatedly arguing the point and complaining about the decision.
- Using abusive or threatening language including swearing, to the Commissioner, Deputy Commissioner or their staff, either in writing or verbally.
- Using bullying, physical or psychological threats as a means to gain leverage with the Commissioner, Deputy Commissioner or a member of their staff.

4. HOW THE COMMISSIONER WILL DEAL WITH SUCH COMPLAINTS

- 4.1. Each complaint submitted to the Commissioner will be assessed on its own merits. Where a member of staff who is dealing with a complaint has grounds for concern that a complainant may be pursuing their complaint in an unreasonable way, they shall refer the complaint to the Interim Chief Operating Officer for consideration.
- 4.2. The Interim Chief Operating Officer will consider the complaint fully and ensure that the relevant policy/procedure has been correctly followed and that each element of the complaint has been addressed. They will also check whether any new issues are raised which are significantly different from the original complaint.
- 4.3. Having considered the circumstances of the case, the Interim Chief Operating Officer may come to the view that the behaviour of the complainant falls within the scope of this policy and that the complainant should be treated as unreasonable, unreasonably persistent and/or vexatious.

- 4.4. The decision to treat a complaint as unreasonable, unreasonably persistent and/or vexatious and to determine what action is to be taken will be made by the Commissioner or Deputy Commissioner, following consultation with the Interim Chief Operating Officer. Decisions will be made having regard to the full circumstances of each case.
- 4.5. The Interim Chief Operating Officer will make a record of the decision and the reasons for it.

5. ACTIONS WHICH MAY BE TAKEN IN RELATION TO UNREASONABLE/ UNREASONABLY PERSISTENT COMPLAINANTS AND VEXATIOUS COMPLAINTS

- 5.1. Any action taken in relation to the decision to treat a complainant as unreasonable, unreasonably persistent or vexatious, should be appropriate and proportionate. The possible options are:
- a. use of mediation by inviting the complainant to a face-to-face meeting. At least two of the Commissioner's staff will meet with the complainant and the complainant may be accompanied.
 - b. continuing to proceed with the complaint under the relevant policy/ procedure and providing the complainant with one point of contact, who will keep a record of all contacts made.
 - c. issuing the complainant in writing with terms of behaviour to be adhered to and setting out expected mutual responsibilities upon which the continued investigation of the complaint will be conditional.
- 5.2. If any terms and conditions imposed are contravened by the complainant or if any mediation fails and the unreasonable or vexatious behaviour persists, then the Interim Chief Operating Officer may consider implementing one or more of the following actions:
- Advise the complainant that they have exhausted the complaints procedure and that there is nothing more to add to the points raised. Explain to them that further contact with the Commissioner will serve no useful purpose. The complainant will also be notified that their complaint is being treated as an unreasonable, unreasonably persistent or vexatious complaint and, as such, correspondence is at an end and that no further correspondence about the same matter will be acknowledged.
 - Decline contact with the complainant either in person, by telephone, by letter, e-mail or fax in relation to that complaint.
 - A record of all contacts made by the complainant thereafter must be kept.

The correspondence will be read but, where it contains no fresh evidence which affects the decision, it need not be acknowledged but merely placed on the file.

- Where an unreasonable, unreasonably persistent or vexatious behaviour continues the Commissioner reserves the right to suspend all contact with the complainant whilst legal advice is sought.

6. VEXATIOUS COMPLAINTS IN RELATION TO THE COMMISSIONER

- 6.1. The Police & Crime Panel for Derbyshire is responsible for handling complaints against the Commissioner and any Deputy Commissioner. Where a complaint is being handled by the Police and Crime Panel, the decision as to whether a complainant is behaving in an unreasonable, unreasonably persistent and/or vexatious way, should be taken by the Police & Crime Panel taking into account its own guidance. Any such decision must be communicated to the Commissioner through the Interim Chief Operating Officer. The decision of the Police & Crime Panel is final.

7. FUTURE DEALINGS WITH PERSONS WHO HAVE BEEN DEEMED TO HAVE BEHAVED IN AN UNREASONABLE, UNREASONABLY PERSISTENT OR VEXATIOUS MANNER

- 7.1. Even though an individual has made complaints that were pursued in an unreasonable, unreasonably persistent and/or vexatious manner in the past, it must not be assumed that any future complaints or contact from them will also be unreasonable or vexatious. If a new complaint, on a separate matter, is received it must be treated on its own merits.

8. SAFETY AND WELFARE OF STAFF

- 8.1. Where a complainant's behaviour is so extreme that it is reasonably perceived that it could threaten the immediate safety and/or welfare of the Commissioner, Deputy Commissioner or the Commissioner's staff or their families, or causes the recipient of the behaviour to feel threatened or alarmed, the Commissioner or the Interim Chief Operating Officer may consider other options, for example reporting the matter to the Police or taking legal action. Such incidents should be logged on the register of complaints. Similarly, where a complainant behaves in such a way that it appears they may be committing a criminal offence such behaviour will be reported to the Police.